

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

FRACTUS, S.A.,

Plaintiff,

V.

AT&T MOBILITY LLC,

SPRINT COMMUNICATIONS  
COMPANY, L.P., SPRINT SPECTRUM,  
L.P., SPRINT SOLUTIONS, INC., NEXTEL  
OPERATIONS, INC.,

T-MOBILE US, INC., T-MOBILE USA,  
INC.,

VERIZON COMMUNICATIONS INC.,  
CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS,

Defendants.

**CIVIL ACTION NO. 2:18-CV-00135-JRG**  
**LEAD CASE**

**CIVIL ACTION NO. 2:18-CV-00136-JRG**  
**MEMBER CASE**

**CIVIL ACTION NO. 2:18-CV-00137-JRG**  
**MEMBER CASE**

**CIVIL ACTION NO. 2:18-CV-00138-JRG**  
**MEMBER CASE**

## ORDER

Before the Court is Plaintiff Fractus, S.A.’s (“Fractus”) Unopposed Motion to Amend Docket Control Order (the “Motion”). (Dkt. No. 271.) Fractus seeks to extend the deadline to complete fact discovery for the limited purpose of allowing the resolution of motion practice pending in other courts and the receipt of any discovery ordered pursuant to those motions. (*Id.* at 1–2.) Fractus indicates that discovery motions are currently pending against non-parties to this action in the District of Connecticut, the Northern District of California, the Southern District of New York, and the District of Massachusetts. (*Id.* at 2–3.) Fractus asks for an extension until May 15, 2019, for this limited purpose. However, Fractus gives no indication when it reasonably

expects any of these discovery disputes to be resolved and the relevant discovery to be completed, much less any indication that such would occur by May 15. Accordingly, while Fractus demonstrates that such discovery is important to its case, and Defendants do not oppose the relief sought, the Court is not inclined to grant relief that is premature and prior to the actual receipt of the discovery that is sought but yet still pending elsewhere.

Therefore, the Court finds that Fractus's Motion should be and hereby is **DENIED WITHOUT PREJUDICE**. Leave is granted, however, to refile the motion once Fractus has received what it seeks by way of discovery elsewhere or when it has determined with certainty by what firm date such pending discovery can and will be completed, if at all.<sup>1</sup>

**So ORDERED and SIGNED this 18th day of April, 2019.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Once this date has been determined, the parties should also “work together to agree to and propose to the Court a reasonable extension of the deadlines for supplemental expert reports to address the discovery sought by Fractus ... in its pending motions, for expert depositions relating to the supplemental reports, and for *Daubert* motions relating to the supplemental reports.” (Dkt. No. 271, at 2.) Such negotiated proposal should be included and called out as part of any subsequent motion to extend fact discovery.